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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,530	07/18/2003	Gary Flerchinger	0554300-0202	2808

7590 06/29/2005  
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EXAMINER

KEENAN, JAMES W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,530

Applicant(s)

FLERCHINGER ET AL.

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-19 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/18/03</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-7, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimoto et al (US 3,881,613) in view of Schaffler (US 4,096,959).

Torimoto shows refuse collection vehicle 1 comprising chassis 2, detachable storage container 5 having rear wall 28 with opening 13 therein and door 29 movable between open and closed positions relative to the opening, tailgate assembly 7 pivotally mounted to the chassis, including hopper 11b to receive refuse and packer assembly 20 to move refuse from the hopper to the opening 13 when the door 29 is open.

The door 29 of Torimoto is not a sweep panel designed in conjunction with the packer panel to minimize spilling of refuse from the storage container when the door moves from the open to the closed position.

Schaffler shows a refuse collection vehicle with chassis 1a, container 54 with opening 58 in an end wall thereof and sweep panel 70 movable between open and closed positions, hopper 60 to receive refuse and packer assembly 4 to move refuse from the hopper to the opening 58 when sweep panel 70 is in the open position, wherein the sweep panel and the hopper are configured to minimize spilling of refuse from the container when the sweep panel moves from the open to the closed position.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Torimoto by configuring the door as a sweep panel designed to minimize spilling of refuse, as suggested by Schaffler, as this would allow improved loading as well as decreasing the complexity of the packer assembly.

Re claim 7, the tailgate assembly of Torimoto can be pivoted "forward", as broadly claimed, as shown in figure 1 (phantom).

Re claim 10, the wall 94 of the container of Schaffler opposite the hopper is hinged at the top. To have added this feature to the apparatus of Torimoto would have been a design expediency to enhance unloading. Note that even though it is not the front wall, since it is the wall opposite the hopper, in the Torimoto apparatus it would be analogous to the front wall.

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4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torimoto in view of Schaffler, as applied to claims 1 and 6 above, and further in view of Winter (US 4,986,716), cited by applicant.

The modified Torimoto apparatus does not show the tailgate assembly to be pivoted to a rearward position such that it is supported by a roller when the container is removed.

Winter shows a similar type of refuse collection vehicle wherein a tailgate assembly is supported by a roller 119 when pivoted to a rearward position to allow a detachable storage container to be removed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Torimoto by adding a roller to the tailgate assembly so that it could be pivoted to a ground engaging rearward position during container removal, as shown by Winter, as this would allow easier and less complex movement during container replacement.

5. Claims 13-19 are allowed.

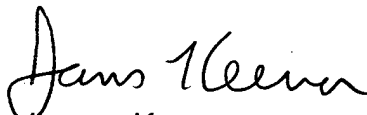
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
6/21/05